

Exhibit 4

HONORABLE FRANKLIN D. BURGESS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TODD and ANNE ERICKSON, individually
and the marital community composed thereof,

Plaintiffs,

v.

MICROAIRE SURGICAL INSTRUMENTS
LLC, a Virginia limited liability company doing
business in the State of Washington,

Defendant.

No. C08-5745 FDB

**DEFENDANT'S FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION TO PLAINTIFF
TODD ERICKSON AND ANSWERS
AND RESPONSES THERETO**

GENERAL OBJECTIONS

1. Plaintiff objects to any discovery request(s) seeking information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

2. Plaintiff objects to any discovery request(s) seeking to impose burdens different or in excess of those mandated in the Civil Rules.

3. Plaintiff objects to any interrogatory or request for production seeking information or documents relating to a time period prior to 2004 unless otherwise indicated.

4. Plaintiff objects to the Interrogatories and Requests for Production of Documents on the grounds that they seek information that is not in plaintiff's possession, custody or control. In responding to the Interrogatories, plaintiff has made a reasonable effort to attain the

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1 information sought, but has not attempted to procure information from sources outside his
2 possession, custody or control. Plaintiff's responses are based upon a reasonable search of the
3 information and documents available to him.

4 5. Plaintiff objects to Defendant's discovery on the grounds that it seeks information
5 that was prepared in anticipation of litigation, constitutes attorney work product, discloses mental
6 impressions, conclusions, opinions or legal theories of any attorney for or other representative of
7 plaintiffs, contains privileged attorney-client communications, or is otherwise protected from
8 disclosure under applicable privileges, laws or rules. Plaintiff claims such privileges and
9 protections implicated by Defendant's discovery and excluded privileged and protected material
10 from its responses. Any disclosure of such privileged or protected information is inadvertent and
11 is not intended to waive any privileges or protections.

12 6. Plaintiff objects to Defendant's discovery on the grounds that it is unduly
13 burdensome to the extent that the information sought is available in the public domain, has
14 already been disclosed by plaintiff, or is otherwise available to defendant or his counsel.

15 7. Plaintiff objects to Defendant's discovery on the grounds that it is vague and
16 ambiguous, or contain terms that are undefined or otherwise unclear.

17 8. Plaintiff objects to Defendant's discovery on the grounds that it assumes disputed
18 facts or legal conclusions. Plaintiff hereby denies any disputed facts or legal conclusions
19 assumed by each discovery request. Any response or objection, including any production of
20 documents by plaintiff with respect to any such Interrogatory is without prejudice to this
21 objection and plaintiff's right to dispute facts and legal conclusions assumed by the
22 Interrogatories.

23 9. In making these responses, plaintiff reserves and does not waive his right to
24 present or rely upon subsequently developed legal theories, additional facts, documents,
25 information or evidence later discovered or obtained, or inadvertently omitted at this time. In
26

1 addition, plaintiff reserves and does not waive his right to amend or supplement its responses in
2 the future.

3 10. The written responses to Defendant's discovery are made solely for the purposes
4 of this action. In providing these responses, plaintiff does not concede the relevancy or
5 materiality of any information provided. The responses are provided subject to and without
6 waiver of all questions or objections as to competency, materiality or admissibility as evidence.

7 11. Plaintiff expressly reserves all objections and privileges that may be applicable in
8 proceedings unrelated to this action. Each response contained herein is subject to all objections
9 as to confidentiality, relevance, materiality, propriety, admissibility, and all other objections and
10 grounds that would require the exclusion of any statement contained herein if these
11 Interrogatories were asked of, or any statements contained herein were made by, a witness
12 present and testifying in court, all of which objections and grounds are reserved and may be
13 interposed at the time of trial.

14 12. Except for explicit facts admitted herein, no incidental or implied admissions are
15 intended. The fact that plaintiff has responded to any discovery request is not to be taken as an
16 admission that he accepts or admits the existence of any fact set forth or assumed by such request or
17 that such response constitutes admissible evidence. Responses contained herein are not intended
18 and shall not be construed to be a waiver of all or part of any discovery request propounded to
19 plaintiff.

20 13. Plaintiff incorporates by reference the above objections into each of the responses
21 set forth below.

22 The information supplied herein is not based solely upon the knowledge of the executing
23 party, but includes the knowledge of the parties, their agents, representatives and attorneys, unless
24 privileged. The word usage and sentence structure may be that of the attorney(s) assisting in the
25 preparation of these answers and objections and, thus, does not necessarily purport to be the precise
26 language of the executing party.

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All documents responsive to defendant's requests for production will be produced at a mutually convenient time at our offices.

INTERROGATORIES

INTERROGATORY NO. 1:

Please state your full name, date of birth, current address, and social security number.

ANSWER:

Robert Todd Erickson
DOB: 07/05/1961
4803 Saddleback Drive NW
Gig Harbor, WA 98322
SSN: 538-60-4693

INTERROGATORY NO. 2

Please list, in chronological order, all addresses at which you have resided during the past ten years, the dates of residence at each, and all individuals who resided with you at each address.

ANSWER:

4803 Saddleback Drive NW	6/2006 to Present
Gig Harbor, WA 98332	
9512 San Fernando Court	Aug. 24 th , 2008 - November 21 st , 2008
Howey in the Hills, FL 34737	December 1 st - Dec. 18 th , 2008
	Jan. 12 th , 2009 - March 5 th , 2009
[Rental property while son was attending a golf academy.]	
4410 Foxglove Drive NW	3/2005 – 5/2006
Gig Harbor, WA 98332	
8715 Rosedale St. NW	6/2002 – 3/2005
Gig Harbor, WA 98335	
2906 19 th Ave. Ct. NW	5/2001 – 6/2002
Gig Harbor, WA 98335	

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3912 Bay View Lane 6/1999 – 5/2001
Gig Harbor, WA 98332

At all times, the only individuals who resided with me were my wife and child.

INTERROGATORY NO. 3:

If you are presently married, state the name of your spouse and the date of marriage.

ANSWER:

Anne W. Erickson January 18, 1992

INTERROGATORY NO. 4:

List the names, dates of birth, and addresses of your children, and whether any are dependent upon you for support.

ANSWER:

Luke R. Erickson, born May 3, 1993. He is fully dependent upon me for support.

INTERROGATORY NO. 5:

Beginning with your high school education, state the name and address of each school, college, trade school or educational institution you have attended, listing the dates of attendance and the nature and date of any degree you received.

ANSWER:

High School	Joel E. Ferris High School Spokane, WA 1975 – 1979
Undergraduate	Pacific Lutheran University Tacoma, WA BA in Biology w/ Minor in Religion 1979 – 1984
Graduate School	Creighton University, School of Dentistry Omaha, Nebraska DDS – Dentistry 1985 – 1989

1	General Practice	University of Nebraska, School of Dentistry
2	Residency	University of Nebraska Medical Center
3		Omaha, Nebraska
4		1989 – 1990
5	OMFS	Detroit-Macomb Hospital Corporation
6	Residency	(Now called St. John-Macomb Medical System)
7		Children's Hospital of Michigan
8		Detroit, Michigan
9		Certificate in Oral & Maxillofacial Surgery
10		Certificate in Pediatric Oral & Maxillofacial Surgery
11		1991 – 1995
12	Other	Tacoma Community College
13		Tacoma, WA
14		Accounting Class
15		Summer of 2007
16		Hillenbrand Fellowship
17		Begins 09/01/2009

INTERROGATORY NO. 6:

Have you ever received disability benefits from any insurance company or received any benefits from any agency of a local, state, or federal governmental agency (i.e., Labor & Industries, unemployment compensation, public assistance, food stamps, social security disability, SSI, or medical assistance)? If so, please identify each such benefit received, the amount received, and the date(s) received.

ANSWER:

Plaintiff objects to this interrogatory on the grounds that it seeks information that is not relevant, not reasonably calculated to lead to the discovery of admissible evidence and seeks information regarding a collateral source. Notwithstanding the foregoing objections:

Plaintiff has received disability income benefits from:

Ohio National Financial Services (9/2007 – Present)

Policy #1 - \$2,259.00 / mo.*

Policy #2 - \$3,500.00 / mo.*

*Benefit payments are approved for 30 days at a time. Policy includes a 4% COL adjustment.

1 ADA / Great West Life and Annuity (9/2007 – Present)
2 Single Policy - \$10,000.00 / mo., Fixed.

3 I receive no other benefits of any kind.

4 INTERROGATORY NO. 7:

5 If you ever been convicted of a crime punishable by imprisonment for more than one
6 year, or that involved dishonesty or false statement regardless of the punishment, please identify
7 the nature of each crime, the date of each conviction or plea, and the county and state in which
you were convicted or plead guilty.

8 ANSWER: No.

9 INTERROGATORY NO. 8:

10 Have you ever received treatment for a mental condition, or for problems with alcohol or
11 other drugs? If so, please state the dates of treatment, identify each treatment provider, and
describe the treatment.

12 ANSWER:

13 I have seen a Psychiatrist Mary Simonson, MD, since May 5, 2009. I defer diagnosis and
14 treatment information to Dr. Simonson. I have never had any problem nor any treatment for any
15 problem associated with alcohol or drugs.

16 INTERROGATORY NO. 9:

17 State each and every factual basis for your contention that the drill was unsafe as
18 designed as alleged in the Complaint.

19 ANSWER:

20 Plaintiff objects to this interrogatory as it calls for legal conclusion. Further, this
21 interrogatory is premature as plaintiffs have just begun to receive documentation in response to
22 their discovery requests. This answer will be supplemented. Notwithstanding the foregoing
23 objection, see paragraphs 24 - 28 of the Complaint.
24
25
26

1 INTERROGATORY NO. 10:

2 State each and every factual basis for your contention that defendant failed to provide
3 proper warnings or instructions as alleged in the Complaint.

4 ANSWER:

5 Plaintiff has reviewed the literature provided to him when he purchased drills from
6 defendant. Nowhere in that documentation is there any warning about risk of hearing loss from
7 use of defendant's product or need to use hearing protection when using defendant's product.

8 INTERROGATORY NO. 11:

9 Do you or your attorneys or agents know of any persons having knowledge of facts
10 relating to any of the issues raised by the pleadings? If your answer is in the affirmative, state as
to each person:

- 11 a. His/her name, address, telephone number, and occupation;
12 b. The general nature of the facts within his/her knowledge and the issues to which
such facts relate.

13 ANSWER:

14 The following are my medical providers who have knowledge of or treated me as a result
15 of noise-induced hearing loss:

16 Stephen G. Kramp, MD General Practitioner
4545 Pt. Fosdick Dr. NW
17 Suite 250
Gig Harbor, WA 98335
18 (253) 530-8000

19 Charles Souliere Jr., MD ENT
Tacoma Ear and Balance Clinic
20 1708 S. Yakima Ave., Suite 112
Tacoma, WA 98405
21 (253) 627-6731

22 Daniel Lazar, MD Neurosurgeon
Neurosurgical Consultants WA
23 1560 N. 115th, #W209
Seattle, WA 98133
24 (206) 368-1701

25 Laura K. Day, Au.D. Audiologist
Harbor Audiology & Hearing Services, Inc.
26 4700 Point Fosdick Dr., Suite 212

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1 Gig Harbor, WA 98335
(877) 683-2154

2 Carl Andrew Brodtkin, MD, MPH Occupational Medicine & Environmental Medicine
3 3607 47th Ave. NE
4 Seattle, WA 98105
(206) 523-4180

5 Richard F. Jensen, Ph.D. Psychologist
6 Family Center for Behavioral Health
7 4700 Pt. Fosdick Dr., Suite 302
Gig Harbor, WA 98335
(253) 851-3808

8 Dr. Mary Simonson Psychiatrist
9 4041 Ruston Way, Suite 202
Tacoma, WA 98402
(253) 759-0288

10 The following are friends, relatives and business associates who either have knowledge
11 that I had to sell my dental practice due to noise-induced hearing loss or the impact that losing
12 my practice and having noise induced hearing loss has had on me or both:

13 Rich Seims, DDS
14 Consani-Seims Ltd.
15 Practice Transitions &
16 Practice Brokerage
17 15215 52nd Avenue, Suite 28
Tukwila, WA 98188
1-866-348-3800

Joseph Bordeaux, DDS
Colleague and Friend
Orthodontist
3519 56th St., Suite 120
Gig Harbor, WA 98335
253-851-5262 (Work)

18 Jason Kors, CPA
19 Dwyer, Pemberton & Coulson
20 Longtime Accountant
21 1940 East D Street, Suite 200
Tacoma, WA 98421
253-572-9922 (Work)

Rhonda Savage, DDS
Colleague and Friend
Retired Dentist, Now Consulting
Address Unknown
253-549-4300

22 Pam Kellerman
23 Friend & Patient
24 Interior Designer
25 6005 49th St. NW
Gig Harbor, WA 98335
253-922-5700 (Work)

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1 Robert (Bob) S. Murray
2 Brother In-Law
3 Chemist
4 502 Windsor Drive
5 Framingham, MA 01701
6 781-223-7955 (Cell)

Jeff Spann
Industrial Hygienist
Department of Labor & Industries
Region 3, Division of Occupational Safety
and Health
950 Broadway, Suite 200
Tacoma, WA 98402
(253) 596-3918

6 John Gagnon, DDS
7 Friend, Colleague
8 Oral & Maxillofacial Surgeon
9 3510 N. Ridge, Suite 500
10 Wichita, KS 67205
11 316-722-0800 (Work)

Gaylon Dacus
Friend
DEA Agent
Address Unknown
El Paso, TX
915-892-5123 (Cell)

10 Paul J. Delay, Esq.
11 Longtime Friend, Patient
12 Attorney at Law
13 506 Second Avenue, Suite 2500
14 Seattle, WA 98104
15 206-622-0670

Matt French
Director of Ins. Services - WDIA
1001 4th Ave., Suite 3800
Seattle, WA 98154
206-441-6824

14 Dick Jackson
15 Oral Surgery Practice Consultant
16 Address Unknown
17 940-320-7828

Kristine Grace, DDS
Friend, Colleague
Oral & Maxillofacial Surgeon
11201 88th Ave. E., Suite 110
Puyallup, WA 98373
253-445-0022 (Work)

18 Bill Meyer, PhD
19 Sports Psychologist
20 12132 SE 15th Street
21 Bellevue, WA 98005
22 (425) 765-2326

Karla Bloomquist, DDS
Dentist/ Friend
4410 Foxglove Dr. NW
Gig Harbor, WA 98332
(253) 514-8865 (home)

22 Anne Erickson
23 4803 Saddleback Dr. NW
24 Gig Harbor, WA 98332

25
26
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Cloie Johnson, M.Ed., ABVE, CCM
OSC Vocational Systems
10132 NE 185th
Bothell, WA 98011
(425) 486-4040

Ms. Johnson has evaluated Dr. Erickson regarding vocational retraining.

INTERROGATORY NO. 12:

List every doctor or other health care provider from whom you have received treatment within the last 10 years, including the dates and nature of the treatment received. This is meant to include, but is not limited to, not only all physicians, but also any counselors, psychologists, therapists, mental health providers, addiction specialists, and/or drug and alcohol rehabilitation workers or counselors.

ANSWER:

Plaintiff objects to this interrogatory on the grounds that it is overbroad and irrelevant and not reasonably calculated to lead to discovery of admissible evidence. Without waiving these objections, plaintiff has been examined or treated by the following health care providers since 2004:

Stephen Kramp, MD
General Practitioner
MultiCare Medical Group
Nature of Treatment: General adult care, annual physical and screenings, flu shot.
Dates: Please refer to records

Laura K. Day, AuD
Audiologist
Nature of Treatment: Noise Induced Hearing Loss and Tinnitus, no treatment.
Annual audiogram, management of hearing aide.
Dates: Please refer to records

Carl Andrew Brodtkin, MD, MPH, FACOEM
Internal Medicine, Occupational & Environmental Medicine
Nature of Treatment: Clinical evaluation, Hx & Physical, Disability and Impairment
Assessment and Rating
Dates: Please refer to records

1 J. Michael Watt, MD
2 Orthopedic & Sports Medicine
3 Orthopedic Specialists of Seattle
4 Nature of Treatment: Arthroscopic knee surgery
Sports related injuries: torn meniscus
5 Dates: R Knee 07/2005 and L Knee 10/2007

6 Richard F. Jensen, PhD
7 Licensed Clinical Psychologist
8 Nature of Treatment: Issues regarding loss of career, business, identity, income.
9 Dates: 2007

10 Charles R. Souliere, Jr. MD
11 Tacoma Ear and Balance Clinic
12 Nature of Treatment: First Audiogram documenting NIHL, no treatment.
13 Dates: Please refer to records

14 Daniel Lazar, MD
15 Seattle Neurosurgery
16 Nature of Treatment: Diagnostic MRI, R/O Acoustic Neuroma, No treatment.
17 Dates: Please refer to records

18 Raed N. Fahmy, MD
19 Cardiac Health Specialists
20 Nature of Treatment: Diagnostic, dysrhythmia associated with short course of
21 baby aspirin. Spontaneously resolved.
22 Dates: Summer 2002 (?)

23 John G. Carrougher, MD
24 Gastroenterologist
25 Nature of Treatment: Diagnostic, upper endoscopy. Gastritis, treated with Nexium,
26 resolved.
Dates: Spring 2001(?)

Former General Practitioner, Now Retired
Dr. Thiesen
Nature of Treatment: One or two visits only for physical, etc.
Dates: Late 90's, maybe 2000 (Do not really remember)

Mark W. Taylor, MD
Pacific Northwest Eye Associates, PS
Ophthalmologist
Nature of Treatment: No treatment, routine eye exam
Dates: ~2006

1 Mary Simonson, MD

2 Psychiatrist

3 Nature of Treatment: Issues regarding loss of career, business, identity, income.

4 Dates: Please refer to records

5 Karla Bloomquist, DDS (Current Dentist)

6 SoundBridge Center For Dental Arts

7 Gig Harbor, WA 98335

8 Nature of treatment: Routine dental exam and hygiene

9 Dates: 2006 - Present

10 Rhonda Savage, DDS (Former Dentist, now retired)

11 Gig Harbor, WA 98335

12 Nature of treatment: Routine dental exams, hygiene, veneers (2)

13 Dates: 1997 - 2006

14 INTERROGATORY NO. 13:

15 Have any of your expenses relating to your alleged damages been billed to or paid by any
16 other person, employer, insurance company, governmental agency, or charitable organization. If
17 so, please identify each such party and the expenses billed to or paid by that person or entity.

18 ANSWER:

19 Plaintiff objects to this interrogatory on the grounds that it is not relevant and not
20 reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding the
21 foregoing objections:

22 My medical insurance has covered some of the visits to providers and diagnostic testing
23 relating to my diagnosis, after my deductible was met. This would include visits to Dr. Kramp
24 General Practitioner), Dr. Laura Day (Audiologist), Dr. Lazar (Neuro), Dr. Souliere (ENT) and I
25 am getting coverage for visits to Dr. Mary Simonson (Psy.), though these will be limited to 12
26 per year.

I did not get coverage for my hearing aide and the evaluations by Dr. Brodtkin, which
together add up to just under \$20,000.00.

Insurance Company in 2006/2007: Premiera Blue Cross (Business Policy)

Insurance Company since June 2007 – Present: Regence Blue Shield (Ind. Policy)

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INTERROGATORY NO. 14:

Please state your employment history for the past ten years including the name and address of each business you owned or employer, the dates of ownership or employment, a description of the services you performed, and the name of your immediate superior to whom you were responsible at each of the places of employment.

ANSWER:

Only one employer: Self Employed (4/1997 – 4/2007)

Sound Oral and Maxillofacial Surgery, PS

Tacoma Office

1628 S. Mildred, Suite 210

Tacoma, WA 98465

Gig Harbor Office

2727 Hollycroft, Suite 270

Gig Harbor, WA 98335

Description of services provided to patients: Comprehensive oral and maxillofacial surgery services including but not limited to: Pre-operative evaluations including chief complaint, history and physical, determination of ASA classification and development of surgical plan with anesthesiology approach. Intra-operative initiation and management of IV general anesthesia or IV sedation; patient monitoring utilizing EKG, blood pressure, pulse oximetry and pre-cordial / pre-tracheal stethoscope while titrating anesthetic agents to desired level of effectiveness with concurrent maintenance of patent airway while simultaneously performing the necessary surgical procedure. Immediate post-operative patient monitoring in surgical suite and recovery room, performing discharge evaluation utilizing Aldrete post anesthesia recovery criteria as well as assessing surgical site stability. Performed post-operative surgical evaluations as needed post procedure, dependent upon individual indications.

Typical surgical procedures performed: Dentoalveolar surgery, pre-prosthetic surgery, and reconstructive bone grafting including sinus-lift, block grafting, particulate grafting utilizing autograft, allograft, xenograft and/or synthetic grafting material. Surgical placement of dental implants. Other clinical services included radiological evaluation, typically panographic, CT and MRI films, trauma evaluation, stabilization and surgical intervention, oral pathology and head and neck infection management.

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1 INTERROGATORY NO. 15:

2 Identify all expert witnesses you intend to call at trial, and as to each, state the subject
3 matter and the substance of the facts and opinions to which the expert is expected to testify as
4 well as a summary for the grounds for each opinion.

5 ANSWER:

6 Plaintiff objects to identifying experts as premature. Plaintiff will comply with the case
7 schedule and identify experts by March 22, 2010.

8 INTERROGATORY NO. 16:

9 Have you ever been involved in any other legal actions, either as a defendant or as a
10 plaintiff? If so, state:

- 11 a. the date each action was filed, the court, the names of the parties and their
12 attorneys; and
13 b. a description of the nature of each such action.

14 ANSWER:

15 Yes.

16 2004 – Employment issue involving an associate whom I terminated
17 Parties: Jennifer Forshey
18 Sound Oral & Maxillofacial Surgery, PS
19 Federal Court – Western Washington
20 Settlement reached

21 2002 – Construction Issue – Defective Workmanship, Unlicensed Sub-Contractor
22 Parties: Multiple
23 Myself and wife, Floorcraft, Wm. Daly / Bamboo Hardwoods
24 WA State Department of L&I, USAA Insurance Company
25 Pierce County Court System; some action may also have been in King.
26 Our portion was settled in arbitration.

2000 – Construction Issue – Defective Workmanship, Failure to Obtain Final CO
Parties: Myself & my wife
Godulas Homes
Pierce County Court System
Matter settled in arbitration

1 INTERROGATORY NO. 17:

2 Identify all states or jurisdictions where you have applied for a license to practice
3 dentistry in any form, including but not limited to dental general anesthesia. For each, please
4 indicate the date of application.

5 ANSWER:

6 I have applied for and held a dental license and general anesthesia permit in only the
7 State of Washington. I applied for and received my dental license in 1989 and I obtained a
8 general anesthesia permit in 1995.

9 REQUESTS FOR PRODUCTION

10 REQUEST FOR PRODUCTION NO. 1:

11 Produce a copy of your current resume or curriculum vitae.

12 RESPONSE:

13 This document will be produced.

14 REQUEST FOR PRODUCTION NO. 2:

15 Produce each and every medical, psychological, pharmacy or psychiatric record and/or
16 other document, including diagnostic, imaging and other test results and pathology specimens, or
17 any other documents that form the basis of the claims in the Complaint.

18 RESPONSE:

19 Plaintiff will sign a stipulation for release of medical records from 1997 to present. To
20 the extent that plaintiff is in possession of any of these records, they will be produced.

21 REQUEST FOR PRODUCTION NO. 3:

22 Produce each and every medical, psychological, pharmacy or psychiatric record and/or
23 other document, including diagnostic, imaging and other test results and pathology specimens,
24 concerning the diagnosis of, prognosis of and/or treatment of any physical or mental injury,
25 illness, disease or other condition that you have had since 1997.
26

1 RESPONSE:

2 Plaintiff objects to this request for production on the grounds that it is overbroad and
3 irrelevant and not reasonably calculated to lead to discovery of admissible evidence. Without
4 waiving these objections, plaintiff will sign a stipulation for release of medical records from
5 1997 to present. To the extent that plaintiff is in possession of any of the requested records, they
6 will be produced.

7 REQUEST FOR PRODUCTION NO. 4:

8 Produce each and every document prepared by any Health Care Practitioner who has
9 treated you since 1997.

10 RESPONSE:

11 Plaintiff objects to this request for production on the grounds that it is overbroad and
12 irrelevant and not reasonably calculated to lead to discovery of admissible evidence. Without
13 waiving these objections, plaintiff will sign a stipulation for release of medical records from
14 1997 to present. To the extent that plaintiff is in possession of any of the requested records, they
15 will be produced.

16 REQUEST FOR PRODUCTION NO. 5:

17 Produce all documents, including but not limited to, all manuals, receipts,
18 correspondence, literature, articles, and brochures given to you by defendant, its agents, or
19 representatives.

20 RESPONSE:

21 Documents will be produced to the extent they are in plaintiff's possession, custody or
22 control.

23 REQUEST FOR PRODUCTION NO. 6:

24 Produce all documents, including but not limited to, all manuals, literature, articles,
25 brochures, studies, and papers, supporting your claims against defendant in this action.
26

1 RESPONSE:

2 Documents will be produced to the extent they are in plaintiff's possession, custody or
3 control.

4 REQUEST FOR PRODUCTION NO. 7:

5 Produce all documents referenced in paragraph 19 of your Complaint.

6 RESPONSE:

7 Documents will be produced to the extent they are in plaintiff's possession, custody or
8 control.
9

10 REQUEST FOR PRODUCTION NO. 8:

11 Produce all documents referenced in paragraph 20 of your Complaint.

12 RESPONSE:

13 Documents will be produced to the extent they are in plaintiff's possession, custody or
14 control.
15

16 REQUEST FOR PRODUCTION NO. 9:

17 Produce all documents evidencing any more feasible alternative to Defendant's product.

18 RESPONSE:

19 Documents will be produced to the extent they are in plaintiff's possession, custody or
20 control.

21 REQUEST FOR PRODUCTION NO. 10:

22 Produce all documents supporting your claims that you have suffered hearing loss as a
23 result of defendant's product.

24 RESPONSE:

25 See medical records.
26

1 REQUEST FOR PRODUCTION NO. 11:

2 Produce each and every investigative report, analysis, tests, inspection, or other study
3 performed on, or that relates to, the pneumatic drill.

4 RESPONSE:

5 Documents will be produced to the extent they are in plaintiff's possession, custody or
6 control.

7 REQUEST FOR PRODUCTION NO. 12:

8 Please produce all documents evidencing any servicing of defendant's product, including
9 both servicing by defendant and any other servicing not done by defendant.

10 RESPONSE:

11 Documents will be produced to the extent they are in plaintiff's possession, custody or
12 control.

13 REQUEST FOR PRODUCTION NO. 13:

14 Please produce all documents regarding the purchase, sale, use, or servicing of any drills
15 used by you that were manufactured or sold by companies other than defendant.

16 RESPONSE:

17 N/A with respect to high speed surgical drills.

18 REQUEST FOR PRODUCTION NO. 14:

19 Produce all written statements taken by you or anyone on your behalf concerning the
20 subject matter of this case.

21 RESPONSE:

22 N/A

23 REQUEST FOR PRODUCTION NO. 15:

24 Produce all personal diaries, logs, journals, calendars, notebooks, or similar documents
25 that contain information relating to events which form the basis of this lawsuit, relating to the
26 drill, and/or relating to your medical condition at any time.

1 RESPONSE:

2 Documents will be produced to the extent they are in plaintiff's possession, custody or
3 control.

4 REQUEST FOR PRODUCTION NO. 16:

5 Produce all notes, letters, e-mails, or other documents or communications that you
6 delivered to or received from anyone that relate to the drill or to any and all alleged injuries that
7 are the subject matter of this case.

8 RESPONSE:

9 Documents will be produced to the extent they are in plaintiff's possession, custody or
10 control.

11 REQUEST FOR PRODUCTION NO. 17:

12 Produce all documents relating to any communications that you (or anyone acting on
13 your behalf) had with any other individual, organization or group concerning the subject matter
14 of this case.

15 RESPONSE:

16 See Response to Request for Production No. 16.

17 REQUEST FOR PRODUCTION NO. 18:

18 Produce any statements that you (or anyone acting on your behalf) obtained from the
19 defendant or any of its agents in this case.

20 RESPONSE:

21 N/A

22 REQUEST FOR PRODUCTION NO. 19:

23 Produce each and every bill, invoice, receipt and/or financial statement concerning the
24 diagnosis, prognosis and/or treatment of any and all alleged injuries connected with the subject
25 of this case.

1 RESPONSE:

2 Plaintiff will sign a stipulation for release of medical bills from 1997 to present. To the
3 extent that plaintiff is in possession of any of the requested records, they will be produced.

4 REQUEST FOR PRODUCTION NO. 20:

5 Produce all documents supporting any claim for lost wages or income.

6 RESPONSE:

7 See attached.

8 Income Tax Returns 2000 – 2007 & comparison chart
9 P& S for business
10 2008 will be supplemented once filed

11 REQUEST FOR PRODUCTION NO. 21:

12 Produce all documents supporting any claim for financial losses or expenses not already
13 covered by the preceding requests.

14 RESPONSE:

15 Documents will be produced to the extent they are in plaintiff's possession, custody or
16 control.

17 REQUEST FOR PRODUCTION NO. 22:

18 Produce your state and federal income tax returns for the years 2000 to present. This
19 request includes not only any personal individual returns, but also any business/corporate returns
20 (if any).

21 RESPONSE:

22 See Plaintiff's Response to Request for Production No. 20.

23 REQUEST FOR PRODUCTION NO. 23:

24 Produce all documents regarding any liens or subrogated claims filed in this case.

1 RESPONSE:

2 N/A

3 REQUEST FOR PRODUCTION NO. 24:

4 Produce a copy of all exhibits you intend to use at trial in this matter.

5 RESPONSE:

6
7 Plaintiff objects to this request for production as premature. Plaintiff will identify and
8 produce all exhibits intended to use at trial as required by Federal Rules of Civil Procedure and
9 the case schedule.

10 REQUEST FOR PRODUCTION NO. 25:



11 Produce a copy of the most current resume or curriculum vitae of each and every expert
12 witness you intend to call to testify at the time of trial in this matter.

13 RESPONSE:

14 Plaintiff objects to identifying experts as premature. Plaintiff will comply with the case
15 schedule and identify experts by March 22, 2010.

16
17 ANSWERS DATED this 28TH day of August, 2009.

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19
20
21 By  

22 Anthony D. Shapiro, WSBA No. 12824
23 David P. Moody, WSBA No. 22853
24 Martin D. McLean, WSBA No. 33269
25 1301 Fifth Avenue, Suite 2900
26 Seattle, Washington 98101
Tel.: (206) 623-7292
Fax: (206) 623-0594
tony@hbsslaw.com

Attorneys for Plaintiffs

DEF.'S 1ST SET OF INTERROG. & RFP TO
PLF. TODD ERICKSON & ANSWERS THERETO- 22
Case No. C08-5745 FDB

VERIFICATION


STATE OF WASHINGTON)
COUNTY OF PIERCE) ss.

I, Robert Todd Erickson, certify under penalty of perjury under the laws of the State of Washington that the foregoing answers and responses are true and correct.

DATED this 28 day of August, 2009.


ROBERT TODD ERICKSON

SUBSCRIBED AND SWORN TO before me this 28th day of August, 2009.


NOTARY PUBLIC in and for the State of
WA, residing at Seattle.

My commission expires: 05-10-2012.

DEF.'S 1ST SET OF INTERROG. & RFP TO
PLF. TODD ERICKSON & ANSWERS THERETO: 23
Case No. C08-5745 FDB

003035-11 319319 V1

AUG-28-2009 10:05 AM

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P.02

CERTIFICATE OF SERVICE

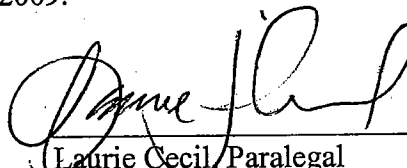
The undersigned hereby certifies that she is an employee in the law offices of Hagens Berman Sobol Shapiro LLP, and is a person of such age and discretion as to be competent to serve papers.

I hereby certify that on August 28, 2009, I served via messenger Answers and Responses to Defendant's First Set of Interrogatories and Requests for Production of Documents to Plaintiff Todd Erickson on the following:

Mr. D.K. Yoshida
OGDEN MURPHY WALLACE P.L.L.C.
1601 Fifth Avenue, Suite 2100
Seattle, Washington 98101-1686

Attorneys for Defendant MicroAire Surgical Instruments LLC

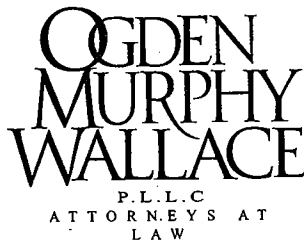
DATED this 28th day of August, 2009.



Laurie Cecil Paralegal
Hagens Berman Sobol Shapiro LLP
1301 Fifth Avenue, Suite 2900
Seattle, Washington 98101
Telephone: (206) 623-7292
Facsimile: (206) 623-0594

DEF.'S 1ST SET OF INTERROG. & RFP TO
PLF. TODD ERICKSON & ANSWERS THERETO- 24
Case No. C08-5745 FDB

Exhibit 5



Jaime D. Allen
206.442.1311
jallen@omwlaw.com

April 20, 2010

VIA E-MAIL AND U.S. MAIL

Anthony Shapiro
Hagens Berman Sobol Shapiro
1918 Eighth Avenue
Suite 3300
Seattle, Washington 98101

RE: *Erickson v. MicroAire*
Microaire's Second Sets of Discovery to Todd and Anne Erickson

Dear Tony:

I write regarding serious deficiencies in both Todd and Anne Erickson's Answers and Responses to Defendant's Second Set of Interrogatories and Requests for Production. The responses and answers that Plaintiffs have given are not within the spirit or the letter of the Federal Rules of Civil Procedure. I assume that your office will supplement these responses appropriately, so as to avoid needless motions practice before the Court.

However, if Plaintiffs choose not to fully supplement their responses by April 22 at 9:00 a.m., please plan to participate in a Fed.R.Civ.P. 37 discovery conference at that time. Pursuant to my other letter, if this time is unavailable, I am available at your office's convenience on April 22. If your office cannot participate in a discovery conference until April 26, 2010, I will plan that we will (1) set a discovery conference for April 26, 2010 at 1:00 p.m.; and (2) extend the discovery cut-off for 1 week due to your firm's delay in being able to participate in a conference.

I have detailed the responses and answers that require supplementation in the enclosed document.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.

A handwritten signature in black ink, appearing to be "JA", is written over the typed name of Jaime D. Allen.

Jaime D. Allen

Enclosure

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Anthony Shapiro
April 20, 2010
Page 2

bcc: Chris Spofford
Nancy Mullican
Brett Sarason

Carole S. Henry

From: Carole S. Henry on behalf of Jaime D. Allen
Sent: Tuesday, April 20, 2010 1:09 PM
To: 'tony@hbsslaw.com'
Subject: Erickson v. MicroAire
Attachments: image001.gif; shapiro.PDF

Carole Henry | Legal Assistant to Robert André, Jaime Allen and Jane Savard



Ogden Murphy Wallace P.L.L.C.
1601 Fifth Ave., Suite 2100 Seattle, WA 98101
phone: 206.447.7000 | fax: 206.447.0215
chenry@omwlaw.com | omwlaw.com

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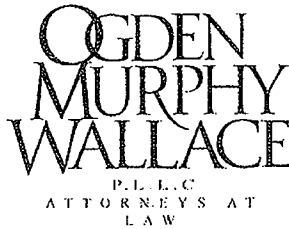
2nd Set of Discovery to Todd Erickson	2nd Set of Discovery to Anne Erickson	Deficiencies
RFP 2, 5	RFP 2, 5	Your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce all requested documents.
	Rog 1	The interrogatory asks that you state the total amount of damages you are claiming, the method by which the amount was computed or determined, and a full description for the basis of your claim. Plaintiff has provided none of this information. Please fully respond to this interrogatory.
	RFP 7	Please produce the records you claim support your response to the preceding interrogatory. To the extent you have already produced such documents, you are required to list the specific documents to which you are referring (by bates number). To the extent you are relying on other documents, and/or your own medical records, you will need to produce those as well.
RFP 8	RFP 8	Please produce the drills. Defendant has repeatedly asked for these drills, which should have been disclosed and produced as part of Plaintiffs' Initial Disclosures. No protocol or other processes are needed. To the extent you believe any protocol are needed, please prepare such protocol or processes.
RFP 10, 11, 12	RFP 10, 11, 12	The documents requested are relevant to this matter. And, although Defendant has subpoenaed these documents from Dr. Forshey, Plaintiffs have moved to quash that subpoena. Many documents are not available through the public record and must be produced.
RFP 14	RFP 14	Please confirm that you are not withholding any documents based on your objections. And, if you are withholding any documents please produce them, as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 15	RFP 15	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 16	RFP 16	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 18	RFP 18	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 19	RFP 19	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.

2nd Set of Discovery to Todd Erickson	2nd Set of Discovery to Anne Erickson	Deficiencies
RFP 21	RFP 21	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 24	RFP 24	Please confirm that you are not withholding any documents based on your objections. Regardless of whether a subpoena was served, Plaintiffs are required to produce all documents in their possession.
Rog 3	Rog 4	Please fully answer this interrogatory. Plaintiff claims Defendant's product allegedly caused hearing loss. Defendant has the right to an extensive medical history of Plaintiff. As to Mrs. Erickson, please identify all health providers, not those since 2006.
RFP 25		Similar to Interrogatory No. 3, please fully respond to this request. As to Mrs. Erickson, after you identify all providers, we will send a stipulation to obtain the records, please confirm she will sign such stipulation.
	Rog 5	Please confirm that you are not withholding any documents based on your objections.
RFP 26	RFP 27	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 29	RFP 31	Please confirm that you are not withholding any documents based on your objection.
RFP 30	RFP 30	Please produce these items. No protocol or other processes are needed. To the extent you believe any protocol are needed, please prepare such protocol or processes.
RFP 32	RFP 33	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 33	RFP 34	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 34	RFP 35	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
Rog 4	Rog 6	Please fully answer this interrogatory. Plaintiffs claim economic damages and Defendant has a right to know this information to defend against these claims.
Rog 5	Rog 7	The tax returns do not provide the requested information. Please fully answer this interrogatory. Please produce the requested information as it meets Fed.R.Civ.P. 26's

2nd Set of Discovery to Todd Erickson	2nd Set of Discovery to Anne Erickson	Deficiencies
		standard for discoverable information
Rog 6		This interrogatory does not request documents, but requests Plaintiff to list the names, addresses, and phone numbers of all dentists that referred more than 5 patients. FRCP 33(d) only allows the production of documents if those documents answer the interrogatory, to the extent such documents do not exist, Plaintiff is not relieved of his burden of fully and completely answering the posed interrogatory. Please fully respond to the interrogatory.
Rog. 7		Please fully respond to this interrogatory. To the extent Plaintiff does not have records, Plaintiff is required to answer to the best of his ability.
RFP 35		Please produce all documents responsive to this request, as it meets Fed.R.Civ.P. 26's standard for discoverable information.
RFP 38	RFP 38	Each Plaintiff responded to this RFP differently. As to Mrs. Erickson, please confirm that no documents are being withheld. As to Dr. Erickson, your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
Rog 9		Your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce the requested information as it meets Fed.R.Civ.P. 26's standard for discoverable information.
RFP 46	RFP 46	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
RFP 47	RFP 47	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.
Rog 11		Please confirm that the cited deposition testimony encompasses <i>all</i> steps taken by you and/or SOMS to protect the hearing of your employees.
Rog 12		This interrogatory does not request documents, but requests Plaintiff to provide names, addresses, and phone numbers of all persons employed by SOMS. FRCP 33(d) only allows the production of documents if those documents answer the interrogatory, to the extent such documents do not exist, Plaintiff is not relieved of his burden of fully and completely

2nd Set of Discovery to Todd Erickson	2nd Set of Discovery to Anne Erickson	Deficiencies
Rog 13		answering the posed interrogatory. Please fully respond to the interrogatory.
		Please confirm that Plaintiff does not know, and cannot find out, who was responsible for SOMS' billing for the period of January 1, 1997 through the present. Plaintiff has an affirmative duty to obtain this information if it is in his possession, custody, or control.
RFP 51		Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.

Exhibit 6



Jaime D. Allen
206.442.1311
jallen@omwlaw.com

April 27, 2010

VIA E-MAIL AND U.S. MAIL

Anthony Shapiro
Hagens Berman Sobol Shapiro
1918 Eighth Avenue
Suite 3300
Seattle, Washington 98101

RE: *Erickson v. MicroAire*
April 22, 2010 Discovery Conference Regarding 2nd Set of Discovery to Todd Erickson
and 1st Set of Discovery to Anne Erickson

Dear Mr. Shapiro:

On April 22, 2010, we met and conferred regarding the deficiencies in Plaintiffs' discovery responses to MicroAire's 2nd Set of Discovery to Todd Erickson and 1st Set of Discovery to Anne Erickson. MicroAire's concerns were initially detailed in my April 20, 2010 letter to you. Attached please find a chart summarizing the discovery at issue and disposition of each request after our discovery conference.

During our call, you agreed to look at a number of items and let me know by Wednesday, April 28, 2010, whether or not you would provide additional information/documents.

MicroAire reserves the right to file a motion to compel on all unresolved issues discussed at the conference. To the extent that Plaintiffs produce documents and/or supplement their responses sufficient to address MicroAire's concerns, MicroAire will withdraw the relevant portion of any motion filed.

Very truly yours,

OGDEN MURPHY WALLACE, P.L.L.C.



Jaime D. Allen

Enc.

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2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 2, 5	RFP 2, 5	Your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce all requested documents.	<p>RFP 2: Plaintiffs question if this request is reasonably calculated to lead to the discovery of admissible evidence; believe that they have 2-5 performance evaluations; no performance evaluations since 2004 because the current owner retained those records; do not agree to produce responsive documents in their possession.</p> <p>RFP 5: Plaintiffs agreed to produce resumes if they have any, may be 2-3 resumes total; state that payroll records would indicate dates of employment.</p>
	Rog 1	The interrogatory asks that you state the total amount of damages you are claiming, the method by which the amount was computed or determined, and a full description for the basis of your claim. Plaintiff has provided none of this information. Please fully respond to this interrogatory.	Plaintiffs claim that they do not need to state the approximate amount of damages they are claiming for loss of consortium; do not believe there is a formula for determining the damages; state that this damages calculation is dependent on a lot of terms.
	RFP 7	Please produce the records you claim support your response to the preceding interrogatory. To the extent you have already produced such documents, you are required to list the specific documents to which you are referring (by bates number). To the extent you are relying on other documents, and/or your own medical records, you will need to produce those as well.	Plaintiffs confirm that the information is contained in expert reports and that they have already identified all providers since 2006. Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 8	RFP 8	<p>Please produce the drills. Defendant has repeatedly asked for these drills, which should have been disclosed and produced as part of Plaintiffs' Initial Disclosures. No protocol or other processes are needed. To the extent you believe any protocol are needed, please prepare such protocol or processes.</p>	<p>Plaintiffs proposed that the parties agree to reciprocal drill testing of each parties' drills so that (1) there is no destructive testing; and (2) the parties can send a representative to videotape the testing being done. If MicroAire agreed to this protocol, Plaintiffs would produce the drills within the next 10 days.</p> <p>During the parties' teleconference on April 21, 2010, MicroAire's counsel expressed concerns with videotaping the testing of the drills. After conferring with other MicroAire counsel, the parties again discussed this matter on April 26, 2010. MicroAire reiterated its objection to having all tests videotaped. MicroAire requests that the drills in Plaintiffs' possession be produced pursuant to the terms set forth in Emily Gant's March 19, 2010 letter to Marty McLean.</p>

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 10, 11, 12	RFP 10, 11, 12	The documents requested are relevant to this matter. And, although Defendant has subpoenaed these documents from Dr. Forshey, Plaintiffs have moved to quash that subpoena. Many documents are not available through the public record and must be produced.	Plaintiffs do not agree to produce these documents, stating that Defendant has acquired a number of these documents through other methods. Plaintiffs expressed that it was "underhanded" for MicroAire to go directly to the court reporters who transcribed the requested depositions.
RFP 14	RFP 14	Please confirm that you are not withholding any documents based on your objections. And, if you are withholding any documents please produce them, as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.
RFP 15	RFP 15	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs maintain their objections and are not waiving their arguments regarding admissibility, but have agreed to look for and produce responsive documents.
RFP 16	RFP 16	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs do not agree to produce these documents.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 18	RFP 18	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs do not agree to produce these documents. Plaintiffs maintain that these are personal statements that are irrelevant to the suit.
RFP 19	RFP 19	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs do not agree to produce these documents.
RFP 21	RFP 21	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs will consider producing these documents and get back to MicroAire's counsel by Wednesday, April 28, 2010 as to whether or not they will produce the documents.
RFP 24	RFP 24	Please confirm that you are not withholding any documents based on your objections. Regardless of whether a subpoena was served, Plaintiffs are required to produce all documents in their possession.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
Rog 3	Rog 4	Please fully answer this interrogatory. Plaintiff claims Defendant's product allegedly caused hearing loss. Defendant has the right to an extensive medical history of Plaintiff. As to Mrs. Erickson, please identify all health providers, not those since 2006.	Plaintiffs have listed all of Dr. Erickson's providers since 2000. Plaintiffs will not provide any further providers.
RFP 25		Similar to Interrogatory No. 3, please fully respond to this request. As to Mrs. Erickson, after you identify all providers, we will send a stipulation to obtain the records, please confirm she will sign such stipulation.	Plaintiffs do not have these documents; if the Court deems that MicroAire is entitled to Dr. Erickson's records before 2000, then Plaintiff will sign stipulations.
	Rog 5	Please confirm that you are not withholding any documents based on your objections.	Plaintiffs do not agree to provide any further providers.
RFP 26	RFP 27	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs do not agree to produce these documents.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 29	RFP 31	Please confirm that you are not withholding any documents based on your objection.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.
RFP 30	RFP 30	Please produce these items. No protocol or other processes are needed. To the extent you believe any protocol are needed, please prepare such protocol or processes.	Plaintiffs proposed that the parties agree to reciprocal drill testing of each parties' drills so that (1) there is no destructive testing; and (2) the parties can send a representative to videotape the testing being done. If MicroAire agreed to this protocol, Plaintiffs would produce the drills within the next 10 days. During the parties' teleconference on April 21, 2010, MicroAire's counsel expressed concerns with videotaping the testing of the drills. After conferring with other MicroAire counsel, the parties again discussed this matter on April 26, 2010. MicroAire reiterated its objection to having all tests videotaped. MicroAire requests that the drills in Plaintiffs' possession be produced pursuant to the terms set forth in Emily Gant's March 19, 2010 letter to Marty McLean.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 32	RFP 33	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.
RFP 33	RFP 34	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.
RFP 34	RFP 35	Please confirm that you are not withholding any documents based on your objections. To the extent you are withholding documents, please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.
Rog 4	Rog 6	Please fully answer this interrogatory. Plaintiffs claim economic damages and Defendant has a right to know this information to defend against these claims.	Plaintiffs do not agree to produce this information.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
Rog 5	Rog 7	The tax returns do not provide the requested information. Please fully answer this interrogatory. Please produce the requested information as it meets Fed.R.Civ.P. 26's standard for discoverable information	Plaintiffs do not have this information. Plaintiffs have produced all business records, and suggest that MicroAire subpoena records from their accountant.
Rog 6		This interrogatory does not request documents, but requests Plaintiff to list the names, addresses, and phone numbers of all dentists that referred more than 5 patients. FRCP 33(d) only allows the production of documents if those documents answer the interrogatory, to the extents such documents do not exist, Plaintiff is not relieved of his burden of fully and completely answering the posed interrogatory. Please fully respond to the interrogatory.	Plaintiffs have produced a list of referring dentists. MicroAire asked for a bates range to be provided if they are relying on these documents to respond to the interrogatory. Plaintiffs' counsel will look to see if he can determine and provide MicroAire with a bates range by Wednesday, April 28, 2010.
Rog. 7		Please fully respond to this interrogatory. To the extent Plaintiff does not have records, Plaintiff is required to answer to the best of his ability.	Plaintiffs do not have access to the database at SOMS. Plaintiffs' counsel stated that perhaps they could come up with some names responsive to the interrogatory. MicroAire requested that Plaintiffs supplement their interrogatory response accordingly.
RFP 35		Please produce all documents responsive to this request, as it meets Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs' counsel will look for these documents and produce what documents Plaintiffs have by Wednesday, April 28, 2010.

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 38	RFP 38	<p>Each Plaintiff responded to this RFP differently. As to Mrs. Erickson, please confirm that no documents are being withheld. As to Dr. Erickson, your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.</p>	<p>Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce.</p>
Rog 9		<p>Your objections are unfounded. There is no privacy interest in employee resumes or dates of employment. To the extent you believe that employee evaluations, reviews, and/or performance appraisals are entitled to some confidentiality, please draft and propose an appropriate protective order. Please produce the requested information as it meets Fed.R.Civ.P. 26's standard for discoverable information.</p>	<p>Plaintiffs have produced tax returns and payroll records, along with bonus information within the payroll records. Plaintiffs declined to identify bates numbers to MicroAire. MicroAire reserved the right to move to compel, based on Fed.R.Civ.P. 33(d).</p>

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
RFP 46	RFP 46	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs' counsel will look to see if they have the general liability insurance policy by Wednesday, April 28, 2010. As to other documents, including correspondence, Plaintiffs are unwilling to produce any additional documents.
RFP 47	RFP 47	Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs' counsel will look to see if they have the general liability insurance policy by Wednesday, April 28, 2010. As to other documents, including correspondence, Plaintiffs are unwilling to produce any additional documents.
Rog 11		Please confirm that the cited deposition testimony encompasses <i>all</i> steps taken by you and/or SOMS to protect the hearing of your employees.	Plaintiffs have fully responded to this interrogatory.
Rog 12		This interrogatory does not request documents, but requests Plaintiff to provide names, addresses, and phone numbers of all persons employed by SOMS. FRCP 33(d) only allows the production of documents if those documents answer the interrogatory, to the extents such documents do not exist, Plaintiff is not relieved of his burden of fully and completely answering the posed interrogatory. Please fully respond to the interrogatory.	Plaintiffs contend that the information is in the payroll records, aside from a few resumes. As to the resumes, Plaintiffs' counsel will consider whether he will produce these documents and have an answer to MicroAire by Wednesday, April 28, 2010. As to the remaining documents, Plaintiffs decline to identify the responsive documents produced by bates number. MicroAire reserved the right to move to compel, based on Fed.R.Civ.P. 33(d).

2nd Set of Discovery to Todd Erickson	1st Set of Discovery to Anne Erickson	Deficiencies	Result from Discovery Conference
Rog 13		Please confirm that Plaintiff does not know, and cannot find out, who was responsible for SOMS' billing for the period of January 1, 1997 through the present. Plaintiff has an affirmative duty to obtain this information if it is in his possession, custody, or control.	Plaintiffs' counsel will inquire with his clients and get back with a response to MicroAire, by Wednesday, April 28, 2010, as to whether there is any additional information that can be provided.
RFP 51		Please produce the requested documents as they meet Fed.R.Civ.P. 26's standard for discoverable information.	Plaintiffs confirm they have are not withholding any documents and have no additional documents to produce. Plaintiffs agreed to supplement this response.